

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

MA&UD Department - Greater Hyderabad Municipal Corporation – Completion of Panjagutta Flyover - Request of Gammon India Ltd and Tanikella Integrated Consultants to waive 10% penalty on the total project cost- Orders – Issued.

MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (F2) DEPARTMENT

G.O.Ms.No. 27

Dated: 18.01.2010
Read the following:-

1. G.O.Ms No 687, MA&UD(F2)Dept., Dated: 10.9.2007.
2. Representation from Gammon India Ltd., dt.22.10.2009
3. From the MD, Tanikella Integrated Consultants Pvt Ltd. Dt.24.10.2009.

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ORDER :

In the reference 1st read above, Government have appointed an Enquiry Committee of technical experts to identify the reasons/causes for the fall of 8 segments of Panjagutta flyover under erection on 9.9.2007 for thoroughly investigating the quality of the constructed portion of the flyover, fixing responsibility, taking disciplinary and legal action on the concerned and initiating remedial measures etc, under the Chairmanship of Sri K. Siva Reddy, ENC(R&B) and four other members. The Enquiry Committee has submitted the Enquiry Report to Government. The Chairman and the Members have independently assessed the various factors leading to the incident and unanimously arrived at the final report. Among other recommendations, the committee has proposed that the Gammon India Ltd. to bear all costs, direct and indirect, concerned with loss to individuals and property of public, private and company and any other claims arising at present and in the future and also to impose penalty of 10% of total agreement amount against Gammon India Ltd. and Tanikella Integrated Consultants Pvt Ltd. Accordingly, the GHMC authorities have issued a notices to them as to why the above penalty should not be imposed.

2. In the references 2nd read above, the Gammon India Ltd. has represented that the work of Panjagutta Flyover has been successfully completed and opened for traffic by late Y.S. Rajasekhara Reddy, the then CM on 13.7.2008. The performance of the flyover has been appreciated by everyone using the flyover and awarded by Indian Institute of Bridge Engineers under the category "Most Outstanding Concrete structure in India. Unfortunately, during construction of flyover there was an accident on 9.9.2007 causing death of 2 persons. Reasons for the accident have been investigated by Expert Committee and report submitted to Government. Though the Committee felt that the reasons were beyond the contractor's control, it has recommended 10% penalty on them which is not as per the contract agreement with Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad in addition to payment of compensation to all the victims as per the contract agreement with GHMC. The cause of incident on 9.9.2007 is due to continuous down pour of very high intensity and the event is covered under Clause No 20.4 of the GCC and that the levying of proposed penalty is not tenable as per the terms of agreement. They have paid compensation to all the affected families due to accident and spent Rs148.00 Lakhs towards compensation to victims and making good damages arisen due to accident. They have fulfilled all the obligations as per the Contract Agreement signed with Municipal Corporation of Hyderabad. They have therefore requested the Government to consider for waiving off 10% penalty which is not as per contract conditions and imposition of penalty will be breach of contract.

P.T.O.

3. In the reference 3 read above, the Managing Director Tanikella Integrated Consultants Pvt Ltd. has represented that the accident is purely due to natural calamity and due to laying of new pipe line against the advise of the Consultant and that the Consultant cannot be held responsible for the unfortunate incident and requested the Government to waive the 10% proposed penalty against them.

4. Government have examined the recommendations of the enquiry Committee and is of the view that as per Clause 25 Chapter IV of the agreement conditions of contract signed in between the Gammon India Limited and M.C.H., the liability of the contractor is limited to payment of compensation to the person injured or died in accident and any damage caused to the public property. The penal amount can be levied on the contractor for not fulfilling the contractual obligations. The agreement with the contractor only provided for payment of damages by the contractor for the injury or death of any person and for damage to the property. The Contractor in the instant case has paid damages for an amount of Rs.148.57 lakhs to the injured persons and to the parents of the deceased and also compensated to the damage caused to the property in respect of the above incident and that the proposed imposition of 10% penalty may not be sustainable as per the contract agreement and not valid before Law.

5. Government after careful examination of the matter, hereby order to waive 10% penalty on the total project cost against the Gammon India Limited and Tanikella Integrated Consultant Pvt. Limited.

6. The Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad shall take necessary action in the matter, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

PUSHPA SUBRAHMANYAM
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner,
Greater Hyderabad Municipal Corporation, Hyderabad.

Copy to:

The P.S. to Minister (M.A.&U.D.)

The Gammon India Limited

Near Sadguru Vidyalayam,

Opp.Ushodaya Paints, Katheru Village,

Rajahmundry-533 105

The Mangaing Director,

Tanikella Intergrated Consultants Pvt. Ltd.,

Regd.Off.3-4-851/E/104, M.J. Apts. Barkatpura,

Hyderabad. 500 027.

//FORWARDED BY ORDER//

SECTION OFFICER